

Machinery and equipment used primarily in graphic arts production may be purchased free from Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.325. (This is a GIL.)

December 8, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated August 28, 1998. We regret the delay in our response. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

A ruling is hereby requested as to the exemption from the imposition of sales tax on certain materials, equipment, and repair parts used in the manufacture of consumer goods for sale.

The taxpayer, an Illinois Corporation is engaged in the business of printing or applying labels to plastic and glass containers for sale by it's customers to consumers.

The manufacturing process entails the purchase of reusable wooden frames to which a fabric screen mesh is attached to create a medium by which artwork can be applied to the containers. After assembly of the screen, photographic emulsion is applied to the mesh and dried. After drying a photographic positive is placed over the screen and exposed to a high intensity light generated by a quartz bulb, causing the emulsion to harden in all areas except those covered by the image on the positive, thus transferring the image onto the screen. Blockout is then applied to all imperfections and pinholes in the emulsion to prevent transfer that would cause imperfections within the image. Tape is used around the edges of the screen to prevent leakage of ink onto the completed article.

Once manufactured the screen is placed in the printing machine and ink is squeegeed directly onto the container creating the desired image, which ordinarily is composed of the specific product design, list of ingredients, directions for use, and net contents of the container. The printed part is then placed on either a conveyor which transfers it through a heated drying tunnel to cure the ink, or a conveying system that transfers the part into a shielded tunnel where it is

exposed to a high intensity light developed by use of an Ultra-Violet quartz bulb to initiate curing of the ink.

We would like a ruling on whether the wooden frames, fabric mesh, photographic emulsion, squeegee material, manufacturing equipment, and parts used to repair and maintain the printing machines and curing tunnels would be exempt from sales tax under 86 Ill. Administrative Code 230-330 Machinery and Equipment Exemption.

Printing is specifically excluded from the definition of "manufacturing process" and therefore equipment used in printing does not qualify for the Manufacturing Machinery and Equipment Exemption. See 86 Ill. Adm. Code 130.330(b)(5). For your general information we have enclosed a copy of 86 Ill. Adm. Code 130.325, regarding the Graphic Arts Machinery and Equipment Exemption. Under this exemption, machinery and equipment used primarily in graphic arts production may be purchased free from Retailers' Occupation Tax.

Graphic arts production means printing by one or more of the common processes of printing such as by letterpress, lithography, gravure, screen, engraving, and flexography. Print trade services such as typesetting, negative production, plate production, bookbinding, finishing, and looseleaf binder production are examples of services which are included in the definition of graphic arts production. The exemption extends only to machinery and equipment used in the act of production.

Pre-production activities such as text creation, graphic design, editing or storage do not qualify as graphic arts production. Accordingly, machinery or equipment used primarily for these purposes will not qualify for exemption. However, services provided to physically prepare the final graphic image, design or text for printing will qualify as production activities. Equipment used primarily for such production services will qualify for exemption.

Please note that the Graphic Arts Machinery and Equipment exemption specifically excludes expendable supplies. See 86 Ill. Adm. Code 130.325(b)(2).

When a special order printing situation exists, liability is incurred under the Service Occupation Tax Act. See 86 Ill. Adm. Code 130.2000 and 140.101, enclosed. Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal services. Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. For your general information we are enclosing a copy of 86 Ill. Adm. Code 140.101 regarding sales of service and Service Occupation Tax.

The purchase of tangible personal property that is transferred to service customers may result in either Service Occupation Tax liability or Use Tax liability for the servicemen, depending upon which tax base the servicemen choose to calculate their liability. Servicemen may calculate their tax base in one of four ways: (1) separately stated selling price; (2) 50% of the entire bill; (3) Service Occupation Tax on cost price if they are registered de minimis servicemen; or, (4) Use Tax on cost price if the servicemen are de minimis and are not otherwise required to be registered under the Retailers' Occupation Tax Act.

Using the first method, servicemen may separately state the selling price of each item transferred as a result of sales of service. The tax is based on the

separately stated selling price of the tangible personal property transferred. If servicemen do not wish to separately state the selling price of the tangible personal property transferred, those servicemen must use 50% of the entire bill to their service customers as the tax base. Both of the above methods provide that in no event may the tax base be less than the cost price of the tangible personal property transferred. Under these methods, servicemen may provide their suppliers with Certificates of Resale when purchasing the tangible personal property to be transferred as a part of the sales of service.

The third way servicemen may account for their tax liability only applies to de minimis servicemen who have either chosen to be registered or are required to be registered because they incur Retailers' Occupation Tax liability with respect to a portion of their business. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). See, 86 Ill. Adm. Code 140.101(f) enclosed. This class of registered de minimis servicemen is authorized to pay Service Occupation Tax (which includes local taxes) based upon the cost price of tangible personal property transferred incident to sales of service. They remit the tax to the Department by filing returns and do not pay tax to suppliers. They provide suppliers with Certificates of Resale for the property transferred to service customers.

The final method of determining tax liability may be used by de minimis servicemen that are not otherwise required to be registered under the Retailers' Occupation Tax Act. Servicemen may qualify as de minimis if they determine that their annual aggregate cost price of tangible personal property transferred incident to sales of service is less than 35% of their annual gross receipts from service transactions (75% in the case of pharmacists and persons engaged in graphic arts production). Such de minimis servicemen may pay Use Tax to their suppliers or may self-assess and remit Use Tax to the Department when making purchases from unregistered out-of-State suppliers. Those servicemen are not authorized to collect "tax" from their service customers, nor are they liable for Service Occupation Tax. It should be noted that servicemen no longer have the option of determining whether they are de minimis using a transaction by transaction basis.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.